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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Arab Lawyers Union, Arab Organization for Human Rights, General Arab Women Federation, Indian Movement "Tupaj Amaru", International Volunteerism Organization for Women, Education and Development - VIDES, Nord-Sud XXI - North-South XXI, Organisation Mondiale des associations pour l'éducation prénatale, Organisation pour la Communication en Afrique et de Promotion de la Cooperation Economique Internationale - OCAPROCE Internationale, Union of Arab Jurists, United Towns Agency for North-South Cooperation, Women's International League for Peace and Freedom, non-governmental organizations in special consultative status, Indian Council of South America (CISA), International Educational Development, Inc., International Human Rights Association of American Minorities (IHRAAM), World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Racial Discrimination and Xenophobia – The Case in Europe

Legal Context

Racial discrimination and xenophobia constitute a negation of the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights. The principles of equality and non-discrimination are reaffirmed in the Declaration of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The declaration recognises that victims can suffer multiple or aggravated forms of discrimination based on grounds such as sex, language, religion, political or other opinion, social origin, property, birth or other status. Member States note also that xenophobia and related intolerance may be aggravated by inequitable distribution of wealth, marginalization and social exclusion. Article 14 of the European Convention on Human Rights (ECHR) also guarantees the prohibition on discrimination[1] [2].

Labour Market Discrimination

Under article 106 of the Programme of Action of the *World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance*, Member States should take Action-oriented policies to ensure non-discrimination, in particular as regards access to employment[3] [4].

Disturbing rates of discrimination at work with significant implications are reported in Europe. In particular, racial and ethnic discrimination at work limit job opportunities and lowers motivation for school and career success among minority youths[5]. Thus, discrimination is problematic from a human capital perspective also, and not only from a moral point of view[6].

According to a study on ethnic differences in occupational attainment in the United Kingdom (2012), wages and unemployment cannot fully be explained by differences in human capital or demographic characteristics. The remaining

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1 The ECHR guarantees equal treatment in the enjoyment of the rights set down in the Convention. Under this article 14, the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. This prohibition of discrimination is specified by protocol 12 to the ECHR that expands the scope of the prohibition of discrimination by guaranteeing equal treatment in the enjoyment of any right (including rights under national law)

2 *Handbook on European non discrimination law*, (2010) European Union Agency for Fundamental Rights, Council of Europe. http://www.echr.coe.int/Documents/Handbook_non_discri_law_ENG_01.pdf

3 Under this article, the Programme of Action urges States to avoid the negative effects of discriminatory practices, racism and xenophobia in employment and occupation by promoting the application and observance of international instruments and norms on workers' rights

4 Programme of action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. http://www.un.org/en/durbanreview2009/pdf/DDPA_full_text.pdf

5 Constantine, M.G., Erikson, C.D., Banks, R.W. and Timberlake, T.L. (1998), "Challenges to the career development of urban racial and ethnic minority youth: implications for vocational intervention", Journal of Multicultural Counselling and Development, Vol. 26 No. 2, pp. 83-95.

6 Forstenlechner, I., & Al-Waqfi, M. a. (2010). "A job interview for Mo, but none for Mohammed": Religious discrimination against immigrants in Austria and Germany. *Personnel Review*, *39*(6), 767–784.

unexplained component of such differences reflects discrimination, and has been termed the "ethnic penalty"[7]. This penalty persists among several ethnic minority groups in the United Kingdom[8] [9].

Moreover, the rate of over-qualification suggests that a disproportionate number of minority ethnic men and women are employed in jobs which do not require their level of educational attainment both in the UK[10] and internationally[11].

For instance, Muslims are disadvantaged by treatment in the European labour market; they experience unemployment levels that are four to five times the national average in France and Great Britain, and double the national average in Germany. According to a study on Muslim workers in Austria and Germany (2010), fifteen percent of respondents[12], mentioned non-accreditation of their home country education as a major obstacle to find work. Second, 12.5 percent of respondents reported discrimination based on their colour of skin resulting in them being assigned menial tasks compared to "white" European colleagues. Third, some respondents reported higher performance pressures at work compared to non-minority colleagues[13].

This study also found employment to be the major point identified as relevant to discrimination on a religious basis. Several interviewees reported experiments, like shortening "Mohammed" to "Mo" on applications and suddenly getting a chance to go to an interview, or taking off their headscarves prior to entering an organisation's building for an interview[14] [15].

Second-Generation Immigrants in the Labour Market

Article 17 of the Programme of Action of the World Conference Against Discrimination notes the importance of paying special attention to new manifestations of racism, racial discrimination, xenophobia and related intolerance to which youth might be exposed.

Second-generation immigrants, although having an education in the host country, and even if they become nationals, experience discrimination in accessing jobs in Europe. This discrimination is related to attitudes and stereotypes attached to their parents' generation. For instance, a study on that issue shows that descendants of Pakistani immigrants

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[7] Rafferty, a. (2012). Ethnic penalties in graduate level over-education, unemployment and wages: evidence from Britain. *Work, Employment & Society*, *26*(6), 987–1006.

[8] Rafferty, a. (2012). Ibidem.

[9] While past research suggests education for minorities allows better employment or higher occupational status. (Cf. Dale A, Shaheen V, Kalra V and Fieldhouse E (2002) Labour market prospects for Pakistani and Bangladeshi women. *Work, Employment and Society* 16(1): 942–68; Modood T (2004) Capitals, ethnic identity and educational qualifications. *Cultural Trends* 13(2): 87–105; Platt L (2007) *Poverty and Ethnicity in the UK*. Bristol: Policy Press.)

[10] Lindley J (2009) The over-education of UK immigrants and minority ethnic groups: evidence from the labour force survey. *Economics of Education Review* 28(1): 80–89.

[11] Chiswick BR and Miller PW (2010) Educational mismatch. In: Chiswick B (ed.) *High-Skilled Immigration in a Global Labor Market*. Washington, DC: A.E.I Press, 117–54.

[12] Among them two medical doctors, an oil engineer and a lawyer.

[13] Forstenlechner, I., & Al-Waqfi, M. a. (2010). "A job interview for Mo, but none for Mohammed": Religious discrimination against immigrants in Austria and Germany. *Personnel Review*, *39*(6), 767–784.

[14] Forstenlechner, I., & Al-Waqfi, M. a. (2010). Ibidem

[15] This study highlights other forms of discrimination at work against individuals based on their religious affiliation. For instance the study reports that case: "During a time when everybody had the flu, I was on sick leave for a few days and immediately rumours were flying around that this was due to a religious holiday, which actually took place two weeks after. Upon return to work, my supervisor called me to his office and told me that pretending to be sick in order to celebrate my God was not acceptable and he wouldn't accept the doctor's certificate or my calendar showing the real dates as an argument."

are facing discrimination in the Norwegian labour market. Although these young people are close to the majority in school performance and are enrolled in higher education, and some groups even outperform their majority peers[16].

Findings in other European countries lead to similar conclusions. Moreover, some employers in countries including Belgium, France, the Netherlands and Switzerland have been introducing internal regulations or have implemented informal policies prohibiting the wearing of religious and cultural symbols and dress[17].

In Austria and Germany, Muslim immigrants and the second generation of immigrants are subjected to various types of discrimination related to either religious practice in the workplace or religious affiliation. Findings demonstrate negative stereotyping of Muslims that leads to discriminatory behaviours including denied equality in access to jobs, unfair treatment by employers, and exerting more stringent standards in evaluating performance of Muslim employees. In consequence, the perceived discrimination tends to drive Muslim immigrants to identify more with their fellow Muslims, preventing integration into society[18].

Political Environment and Xenophobia

The Programme of Action of the World Conference Against Discrimination, underlines the key role that politicians and political parties can play in combating racism, racial discrimination, xenophobia and related intolerance and encourages political parties to take concrete steps to promote equality, solidarity and non-discrimination in society, inter alia by developing voluntary codes of conduct which include internal disciplinary measures for violations thereof.

Instead of combating xenophobia, the political environment in Europe, particularly far right political parties and the mass media manipulate Anti-Muslims sentiment. These parties spread a stereotyped rhetoric against immigrants and Muslims. A case in point: Marine Le Pen of France's National Front, placed third in presidential elections[19]. Facing this rising power of the far right parties in Europe, the President of the European Commission, José Manuel Barroso in 2013 warned that *"We should not forget that in Europe, not so many decades ago, we had very, very worrying developments of xenophobia and racism and intolerance. So I think everybody that has European principles should be worried about some of these movements."*[20]. Reuters polls suggest that right-wing parties with strong positions on immigration do well in several countries, including Britain, France and Finland.

Alarming Rise in Islamophobia

The existence of Islamophobia in Europe has become an established fact and is formally identified by the European Union. A European Union report concludes that, Islamophobia, discrimination, and socio-economic marginalisation have a primary role in generating disaffection and alienation[21]. Muslims in Europe are facing growing discrimination

[16] Midtbøen, A. H. (2013). The Invisible Second Generation? Statistical Discrimination and Immigrant Stereotypes in Employment Processes in Norway. *Journal of Ethnic and Migration Studies*, (February 2014), 1–19.

[17] http://www.amnesty.org/fr/library/asset/EUR01/001/2012/en/85bd6054-5273-4765-9385-59e58078678e/eur010012012en.pdf

[18] Forstenlechner, I., & Al-Waqfi, M. a. (2010). "A job interview for Mo, but none for Mohammed": Religious discrimination against immigrants in Austria and Germany. *Personnel Review*, *39*(6), 767–784.

[19] Muslims discriminated against for demonstrating their faith http://www.amnesty.org/en/news/muslims-discriminated-against-demonstrating-their-faith-2012-04-23

[20] Reuters : Nationalism and xenophobia on rise ahead of European elections http://www.reuters.com/article/2013/10/30/us-eu-parliament-elections-idUSBRE99T0YZ20131030

[21] Muslims in the European union : Discrimination and Islamopobia, (2006) European Monitoring Centre on Racism and Xenophobia, http://fra.europa.eu/sites/default/files/fra_uploads/156-Manifestations_EN.pdf

for their religious beliefs, not only by ordinary Europeans but also by governments and politicians[22]. In particular, Muslim women, who can be discriminated against in the cases of access to employment, at work, or to go to school simply because they wear specific forms of dress[23] [24].

A report released by Amnesty International focuses on Belgium, the Netherlands, Spain Switzerland, and France, as having the highest discriminations against Muslims in Europe[25]. For instance, in Switzerland, the ban on constructing new minarets in 2009[26], and in Britain, a study shows relatively widespread opposition toward the building and development of mosques[27].
In France, the number of anti-Muslims acts committed in 2013 identified by the National observatory against Islamophobia, reported 226 anti-Muslims acts registered by the police services. It represents an increasing rate of 11.3 percent compared to the rate in 2012[28].

Roma

Roma people in Europe are deprived from basic human standards of life. They are often denied access to jobs and quality health care. They are victims of racial violence and are often left unprotected by the police and without access to justice.

Moreover, in many cases, Roma are denied access to an adequate housing. In 2011, about 45 percent of the Roma lived in households that lacked at least one of the basic housing amenities[29] [30]. In 2013, for instance, more than 4,000 Roma lived in authorized camps in Rome (Italy) and have been systematically discriminated against, including when applying for social housing[31].

When it comes to the treatment of the Roma, European governments are not just failing to respect international human rights standards, but also to enforce anti-discrimination European law[32]. The European Union Agency for Human Rights (FRA) reports in 2009 between 66 percent and 92 percent of Roma, depending on the country surveyed, did not report their most recent experience of discrimination to any competent organisation[33].

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[22] Muslims discriminated against for demonstrating their faith http://www.amnesty.org/en/news/muslims-discriminated-against-demonstrating-their-faith-2012-04-23

[23] Choice and prejudice : Discrimination against Muslims in Europe http://www.amnesty.org/fr/library/asset/EUR01/001/2012/en/85bd6054-5273-4765-9385-59e58078678e/eur010012012en.pdf

[24] Five European Countries Slammed for Discrimination Against Muslims http://www.voanews.com/content/five-european-countries-slammed-for-discrimination-against-muslims--148731215/370078.html

[25] Amnesty, Muslims discriminated against for demonstrating their faith, op.cit.

[26] http://www.swissinfo.ch/fre/politique_suisse/Le_Tessin_vote_sur_l_interdiction_de_la_burka_et_du_niqab.html?cid=36682000

[27] Allen, C. (2014). Anti-Social Networking: Findings From a Pilot Study on Opposing Dudley Mosque Using Facebook Groups as Both Site and Method for Research. *SAGE Open*, *4*(1).

[28] Comment mesure-t-on l'islamophobie http://www.lemonde.fr/societe/article/2014/01/28/la-difficile-mesure-de-l-islamophobie_4355742_3224.html

[29] Namely indoor kitchen appliances, such as a refrigerator, an indoor toilet, shower or bath and electricity

[30] FRA Brief: Data on discrimination of Roma and anti-Roma crime http://www.statewatch.org/news/2013/mar/eu-roma-fra-briefing.pdf

[31] Amnesty International Italy : Roma segregation camps http://www.amnesty.org/en/news/italy-roma-segregation-camps-blight-city-rome-2013-10-30

[32] Roma demanding equality and human rights https://www.amnesty.org/fr/node/36971

[33] The main reason given by Roma for not reporting discrimination was that nothing would happen or change by reporting their experience of discrimination.

In 2011 FRA reported that one out of three Roma aged 35 to 54 years had health problems limiting their daily activities. A significant number of Roma respondents were not covered by medical insurance or did not know if they were covered. On average, less than one of three Roma were reported to be in paid employment[34].

Recommendations to UN especially Member States of the EC at the HRC:

- Encourage all States to enforce the principles of equality and non-discrimination of the UN Charter, and to implement the principles enounced in the Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.
- Consider targeted specific plans of action toward the integration of Muslims and other minorities as Roma, especially in relation to fundamental human rights as education, housing, and employment.
- Develop and apply policies, which promote equality of opportunities and fair treatment.

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[34] During compulsory school age, with the exception of Bulgaria, Greece and Romania, nine out of ten Roma children aged seven to 15 years were reported to be in school; Participation in education drops consequently after compulsory school: only 15 percent of young Roma adults surveyed had completed upper-secondary general or vocational education (cf. FRA Brief. Data on discrimination of Roma and anti-Roma crime http://www.statewatch.org/news/2013/mar/eu-roma-fra-briefing.pdf